DIVISION ONE January 23, 2006

D046352 In re Marriage of Mahnaz and Naghavian

Affirmed. Irion, J.; We Concur: Benke, Acting P.J., Huffman, J.

D045614 Tilaro v. Thorson

The order denying the motion to strike is affirmed. Respondent is awarded his costs on appeal. McIntyre, J.; We Concur: Benke, Acting P.J., Irion, J.

D047716 Alice D. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for Alice D. has notified the court that a petition for writ of mandate under California Rules of Court, rules 38.1 and 1436.5 will not be filed as there are no viable issues for writ review. The case is dismissed.

Court convened at 10 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices

Richard Huffman and Judith Haller

Clerk: D. Moore

D046835 In re Janeen H., a Juvenile

Cause called on merits. Linda Rehm, Esq. argued for appellant. Mary Mitchell, Deputy County Counsel argued for respondent. Steve Buckley, Esq. argued for the minor. Ms. Rehm replied. Cause submitted.

Court adjourned at 10:30 a.m.

D045332 Krontz v. City of San Diego et al.

The judgment is affirmed. McConnell, P.J.; We Concur: Huffman, J., Nares, J.

D045686 Rulla v. State Farm Mutual Automobile Insurance Company

The request for publication of the opinion is denied.

D047719 Katrina S. et al. v Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorneys for petitioners David S. and Katrina S. have notified the court that a petition for writ of mandate under California Rules of Court, rules 38.1 and 1436.5 will not be filed as there are no viable issues for writ review. The case is dismissed.

D047356 In re Carl R., a Juvenile

The petition is denied. Aaron, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D046612 In re Rory S. et al., Minors

The judgment is affirmed. McConnell, P.J.; We Concur: Nares, J., Haller, J.

D046495 In re Brian R., a Juvenile

The judgment is affirmed. Haller, J.; We Concur: Benke, Acting P.J., McDonald, J.

January 23, 2006 (Continued)

D047214 Deanna D. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The Welfare and Institutions Code section 366.26 hearing scheduled for January 24, 2006, is stayed pending further order of this court.

D046982 People v. Oz

The appeal is dismissed pursuant to rule 17.

January 24, 2006

D046044 People v. Najera

The judgment is affirmed. CERTIFIED FOR PUBLICATION. Benke, J.; We Concur: McConnell, P.J., Aaron, J.

D044853 Soto v. Esparza

The orders are affirmed. Aaron, J.; We Concur: McConnell, P.J., Haller, J.

D047663 In re Edward C., a Juvenile

The matter has been read and considered by Presiding Justice McConnell and Associate Justices McDonald and Irion. The notice of appeal received by the superior court on December 6, 2005 is untimely. The case is dismissed.

D045890 Pizaro v. Lambs Players Theatre

The judgment is affirmed. Defendant is entitled to costs on appeal. McDonald, J.; We Concur: Benke, Acting, P.J., Irion, J. CERTIFIED FOR PUBLICATION.

D047733 Priscilla S. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorneys for petitioners Priscilla S. and Aaron C. have notified the court that petitions for writs of mandate under California Rules of Court, rules 38.1 and 1436.5 will not be filed as there are no viable issues for writ review. The case is dismissed.

D044768 People v. Quintero

The count 6 conviction is reversed and the remaining convictions are affirmed as modified to correct the sentence imposed for the count 4 robbery. The superior court is directed to amend the abstract of judgment to reflect the modified sentence and reversal and to forward a copy of the amended abstract to the Department of Corrections. CERTIFIED FOR PUBLICATION Huffman, J.; We Concur: McConnell, P.J., Aaron, J.

Lamb v. Scripps Clinic et al.

The judgment is reversed. Scripps to pay Lamb's costs on appeal. Haller, J.; We Concur: Huffman, Acting P.J., Irion, J.

D047517 In re Robinson on Habeas Corpus

The petition is denied.

D045667

D046348 Friese as Trustee v. Superior Court of San Diego County/Moores et al.

On its own motion the court modifies the opinion filed December 2, 2005, as modified on December 29, 2005. There is no change in the judgment.

D046373 In re Greer on Habeas Corpus

In view of the voluntary abandonment of the petition for writ of habeas corpus filed by petitioner, the order to show cause issued on September 1, 2005, is discharged. The petition is dismissed. No remittitur will issue.

D047465 San Diego Transit v. Workers' Compensation Appeals Board et al.

COURT OF APPEAL OF THE STATE OF CALIFORNIA FOURTH APPELLATE DISTRICT DIVISION ONE January 24, 2006 (Continued)

D047483 In re Morales on Habeas Corpus

January 25, 2006

D046428 People v. Huerta

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.

D047521 In re Cobb on Habeas Corpus

The petition is denied.

D045231 People v. Hancock

The judgment is affirmed. McDonald, J.; Huffman, Acting P.J., Nares, J.

D044800 People v. Fowler

The judgment is affirmed. Haller, J.; We Concur: McConnell, P.J., Aaron, J.

D046993 In re Vanessa G. et al., Juveniles

The judgment is affirmed. Aaron, J.; We Concur: McConnell, P.J., Benke, J.

D045907 Hunter v. Department of Motor Vehicles

Judgment affirmed. Appellant shall pay respondent's costs on appeal. Haller, J.; We Concur: Huffman, Acting P.J., Nares, J.

D047490 In re Paul Thomas

The petition is denied.

D047084 In re Brandy on Habeas Corpus

January 26, 2006

D047522 In re McNeal on Habeas Corpus

The petition is denied.

D047621 Liberty Security Services v. The Superior Court of San Diego County/Sundt Construction Inc., et al.

The petition is denied.

D047531 In re Luevano on Habeas CorpusThe petition is dismissed.

D044632 People v. Green

The judgment is affirmed. CERTIFIED FOR PUBLICATION. Benke, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

D045577 Long v. Dick's Last Resort of San Diego, Inc.

The judgment is affirmed. Nares, J.; We Concur: McConnell, P.J., Aaron, J.

D045925 Brazil v. Sara Lee Corporation

The judgment is reversed and remanded to the trial court with directions to exercise its discretion and determine whether leave to amend to substitute a new plaintiff should be granted. If leave to amend is granted, the trial court is directed to conduct further proceedings consistent with the views we have expressed with respect to FIFRA preemption; if leave to amend is not granted, the trial court is directed to enter a judgment on the pleadings in favor of Sara Lee. Brazil to recover her costs of appeal. Benke, J.; We Concur: McConnell, P.J., McIntyre, J.

D047514 Edge Flood Response, Inc. v. Superior Court of San Diego County/Ledcor Petty Construction Co.

The petition is denied.

D047893 Saddler v. Superior Court of San Diego County/People

The petition is denied.

D044916 People v. Gonzalez

The judgment is reversed. McDonald, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

D047168 The Humane Society of the United States et al. v. The City of San Diego et al.

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)). Each party to bear own costs on appeal.

D047730 Danielle B. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Danielle B. has notified the court that a petition for writ of mandate under California Rules of Court, rules 38.1 and 1436.5 will not be filed as there are no viable issues for writ review. The case is dismissed.

January 26, 2006 (Continued)

D046325 People v. Lain

The portion of the judgment awarding credits is reversed. In all other respects, the judgment is affirmed. The matter is remanded to the trial court with directions to order the preparation and filing of a supplemental probation report and to hold a new hearing on the issue of credits. McDonald, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

D045997 People v. Sua

The violent felony prison prior enhancement is stricken and the sentence is corrected to reflect the indeterminate life term for count 1 has the possibility of parole in 14 years pursuant to the three strikes law. As so modified, the judgment is affirmed. The superior court is directed to amend the abstract of judgment accordingly and to forward a copy of the amended abstract to the Department of Corrections. Huffman, Acting P.J.; We Concur: Nares, J., McDonald, J.

D043877 City of Arcadia et al. v. State Water Resources Control Board et al.

The judgment is affirmed insofar as it is based on the Trash TMDL's violation of CEQA, and on a rejection of each of the issues the Cities raised in their appeal. The judgment is reversed insofar as it is based on the Trash TMDL's lack of an assimilative capacity study, inclusion of the Estuary as an impaired water body, and a cost/benefit analysis under Water Code section 13267 or the consideration of economic factors under Water Code section 13241, and also insofar as it grants declaratory relief regarding the purported inclusion of non-navigable waters in the Trash TMDL. The court's postjudgment order staying the Trash TMDL's implementation schedule is affirmed. The parties are to bear their own costs on appeal. CERTIFIED FOR PUBLICATION

McConnell, P.J.; We Concur: McIntyre, J., Irion, J.

D047534 In re Hudson on Habeas Corpus

The petition is dismissed.

D045487 Smith et al. v. Wells Fargo Bank, N.A. et al.

The opinion filed December 29, 2005, is ordered certified for publication. It is ordered that the opinion filed herein on December 29, 2005, be modified. There is no change in the judgment. The petition for rehearing is denied.

D047675 McCormick v. The Superior Court of San Diego County/Clarendon National Insurance Company

The petition is denied.

D047873 Beals v. Superior Court of San Diego County/Ebert

January 27, 2006

D047379 Brandon B. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petition is denied. Benke, Acting P.J.; We Concur: Nares, J., McIntyre, J.

D043283 Masters v. Alameida et al.

The judgment is affirmed. Benke, Acting P.J.; We Concur: Nares, J., Haller, J.

D047069 In re Kyle F., a Juvenile

The judgment is affirmed. McConnell, P.J.; We Concur: Benke, J., Aaron, J.

D044791 Patel v. City of El Centro et al.

The judgment is affirmed in part regarding the dismissal after demurrer, and reversed in part regarding the order granting a directed verdict, and the cause of action for assault and battery an excessive force is remanded for appropriate further proceedings. Each party to bear its own costs. Huffman, J.; We Concur: McConnell, P.J., Aaron, J.

D045762 People v. Peugeot

The judgment is affirmed. McIntyre, Acting P.J.; We Concur: O'Rourke, J., Aaron, J.

D046322 Wellman v. Public Storage, Inc.

The judgment is reversed. Wellman is entitled to costs on appeal. Haller, J.; We Concur: McConnell, P.J., Nares, J.

D046838 In re Baby Girl M., a Minor

The judgment is reversed, and the matter is remanded with direction to reinstate Robert W.'s parental rights. The court shall consider pending petitions for custody and guardianship of Baby Girl M. CERTIFIED FOR PUBLICATION Irion, J.; We Concur: Haller, Acting P.J., Aaron, J.

D047914 In re Elonte F. et al., Juveniles

The notice of appeal is untimely. The appeal is dismissed.

D047113 Van a Minor, etc. et al. v. Superior Court of San Diego County

The matter having been read and considered by Justices McConnell, McDonald and Irion, the appeal is dismissed on the ground Kelly Van, as a nonattorney guardian ad litem or trustee of plaintiff Leonard Van III, is prohibited from appearing in court in pro per on plaintiff's behalf.

D047536 Goodwill Industries of San Diego et al. v. Workers' Compensation Appeals Board and Coulzin Montoya

The petition is denied.

D047063 In re the Marriage of Bowen

The order dismissing appeal is vacated and appeal is reinstated.